

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

BURTON W. WIAND, as Receiver for
OASIS INTERNATIONAL GROUP, LTD.;
OASIS MANAGEMENT, LLC; AND
SATELLITE HOLDINGS COMPANY,

Plaintiff,

v.

Case No: 8:20-cv-00862-VMC-TGW

CHRIS AND SHELLEY ARDUINI, et al.,

Defendants.

ORDER

This cause is before the Court on Plaintiff's Omnibus Motion for Default Judgment, filed October 13, 2020 (the "**Motion**") (Doc. 523). In the Motion, Plaintiff seeks the entry of default judgment against Defendants, Chris and Shelly Arduini (the "**Arduinis**"), John Bacon ("**Bacon**"), Morgan Albright fka Sherry Barry ("**Albright**"), Ann Barton ("**Barton**"), Todd Berry ("**Berry**"), Black Dragon Capital, LLC ("**Black Dragon**"), Joseph Charles and Cushaun Charles (the "**Charleses**"), Mary Charuk ("**Charuk**"), Ron and Kim Clark (the "**Clarks**"), Commonwealth Network Marketing Corp. ("**Commonwealth Networking**"), Crichlow Computer Concepts ("**Crichlow**"), Thomas and Anne Daidone (the "**Daidones**"), Michael DeYoung ("**DeYoung**"), Mariana Duenas ("**Duenas**"), Patrick Flander ("**Flander**"), Henry and Anna Fuksman (the "**Fuksmans**"), Rocco Garbellano ("**Garbellano**"), Jason Gladman ("**Gladman**"), Chad Hicks ("**Hicks**"), Richard and Courtney Hubbard (the "**Hubbards**"), Charles Huckabee ("**Huckabee**"), Timothy Hunte DBA KATT Distribution ("**KATT Distribution**"), Timothy Hunte ("**Hunte**"), Impulse Ventures, Inc. ("**Impulse Ventures**"), James Jackson ("**Jackson**"), Kerrigan

Management, Inc. (“*Kerrigan Mgt.*”), Joseph and Lynne LaVecchia (the “*LaVecchias*”), Matthew Leach (“*Leach*”), Life’s Elements, Inc. (“*Life’s Elements*”), Piotr Luda (“*Luda*”), Wayne Lynch (“*Lynch*”), Shawn Marshall (“*Marshall*”), Kathryn McClare (“*McClare*”), Vince Petralis, Jr. (“*Petralis, Jr.*”), Jay Renner (“*Renner*”), Michael Rubel (“*Rubel*”), Carmine Vona (“*Vona*”), Stefania Wood (“*Wood*”), and Zhuo Xu (“*Xu*”) (collectively “*Defaulted Defendants*”) for claims under Florida’s Uniform Fraudulent Transfer Act (“*FUFTA*”), Fla. Stat. § 726.101 *et seq.* or in the alternative, unjust enrichment. (Doc. 1). After reviewing the Complaint, the Motion and its declaration and exhibits, and conducting a hearing on October 28, 2020 at 8:30 am, the Court concludes that for the reasons that follow, the Court grants the Motion with respect to the Arduinis, Albright, Barton, Berry, Black Dragon, the Charleses, the Clarks, Commonwealth Networking, Crichlow, the Daidones, DeYoung, Duenas, Flander, the Fuksmans, Garbellano, Gladman, Hicks, the Hubbards, Huckabee, Impulse Ventures, Kerrigan Mgt., the LaVecchias, Leach, Life’s Elements, Luda, Lynch, Marshall, McClare, Petralis, Jr., Renner, Rubel, Vona, and Wood. At the October 28, 2020 hearing on the Motion, Plaintiff withdrew the Motion as it pertained to Charuk.

I. Procedural and Factual Background

Plaintiff filed his Complaint on April 14, 2020. (Doc. 1). Following commencement of this case, a copy of the Complaint and the Summons were served on the following Defaulted Defendants or certain Defaulted Defendants waived service of process. These Defaulted Defendants failed to respond or otherwise defend against the Complaint:

a. The Arduinis were served with process on July 7, 2020. (Doc. 211 and 212). The Arduinis filed a joint Motion to Quash on July 21, 2020 (Doc. 236), which was denied by Oral Order on August 17, 2020, that directed the Arduinis to file an answer to the Complaint by

September 16, 2020 or be subject to entry of default (Doc. 344). The Arduinis failed to answer the Complaint as directed; therefore, on September 21, 2020, Plaintiff moved for entry of clerk's defaults (Doc. 440) and the Clerk entered defaults against them on September 22, 2020 (Doc. 443 and 444);

b. Pursuant to Fed.R.Civ.P. Rule 4(d), on May 4, 2020, Plaintiff mailed a "Notice of a Lawsuit and Request to Waive Service of Summons" and a copy of the Complaint to Bacon, and requested a waiver of the service of summons. Bacon waived service of summons, which required him to file a responsive pleading on or before July 6, 2020. (Doc. 161). Bacon failed to respond to the Complaint or otherwise defend against this action; therefore, on July 16, 2020, Plaintiff moved for entry of a clerk's default (Doc. 221) and the Clerk entered a default against him on July 17, 2020 (Doc. 229);

c. Pursuant to Fed.R.Civ.P. Rule 4(d), on May 4, 2020, Plaintiff mailed a "Notice of a Lawsuit and Request to Waive Service of Summons" and a copy of the Complaint to Albright, and requested a waiver of the service of summons. Albright waived service of summons, which required her to file a responsive pleading on or before July 6, 2020. Albright's signed waiver indicated that she changed her name from Sherry Barry to Morgan Albright in June of 2013. (Doc. 18). Albright failed to respond to the Complaint or otherwise defend against this action; therefore, on July 16, 2020, Plaintiff moved for entry of a clerk's default (Doc. 222) and the Clerk entered a default against him on July 17, 2020 (Doc. 230);

d. Barton was served with process on July 30, 2020. (Doc. 334). Barton filed a Motion to Quash on August 14, 2020 (Doc. 335) which was denied by Oral Order on August 17, 2020, that directed Barton to file an answer to the Complaint by September 16, 2020 or be subject to entry of default (Doc. 344). Barton failed to answer the Complaint as directed; therefore, on

September 17, 2020, Plaintiff moved for entry of a clerk's default (Doc. 422) and the Clerk entered a default against her on September 18, 2020 (Doc. 430);

e. Berry was served with process on September 5, 2020. (Doc. 417). Berry failed to respond to the Complaint or otherwise defend against this action; therefore, on September 29, 2020, Plaintiff moved for entry of a clerk's default (Doc. 487) and the Clerk entered a default against Berry on September 30, 2020 (Doc.490);

f. Black Dragon was served with process on June 30, 2020. (Doc. 252). By Endorsed Order entered on August 14, 2020, the Court granted Black Dragon thirty (30) days to respond to the Complaint or pursue other remedies (Doc. 333). Black Dragon failed to answer the Complaint as directed; therefore, on September 17, 2020, Plaintiff moved for entry of a clerk's default (Doc. 424) and the Clerk entered a default against Black Dragon on September 18, 2020 (Doc. 432);

g. The Charleses were served with process on June 30, 2020. (Doc. 201 and 202). The Charleses failed to respond to the Complaint or otherwise defend against this action; therefore, on July 23, 2020, Plaintiff moved for entry of clerk's defaults (Doc. 262 and 263) and the Clerk entered defaults against the Charleses on July 28, 2020 (Doc. 278 and 279);

h. The Clarks were served with process on July 7, 2020. (Doc. 189 and 190). The Clarks failed to respond to the Complaint or otherwise defend against this action; therefore, on August 4, 2020, Plaintiff moved for entry of clerk's defaults (Docs. 298 and 299) and the Clerk entered defaults against the Clarks on August 5, 2020 (Doc. 303 and 304).;

i. Commonwealth Network was served with process on August 3, 2020. (Doc. 330). Commonwealth Networking failed to respond to the Complaint or otherwise defend against this action; therefore, on September 3, 2020, Plaintiff moved for entry of a clerk's default (Doc. 406) and the Clerk entered a default against it on September 3, 2020 (Doc. 409);

j. Crichlow was served with process on August 3, 2020. (Doc. 329). Crichlow failed to respond to the Complaint or otherwise defend against this action; therefore, on September 3, 2020, Plaintiff moved for entry of a clerk's default (Doc. 405) and the Clerk entered a default against it on September 3, 2020 (Doc. 408);

k. The Daidones were served with process on June 29, 2020. (Doc. 177 and 178). The Daidones failed to respond to the Complaint or otherwise defend against this action; therefore, on July 28, 2020, I moved for entry of clerk's defaults (Docs. 271 and 272) the Clerk entered defaults against the Daidones on July 29, 2020 (Doc. 286 and 287);

l. DeYoung was served with process on August 11, 2020. (Doc. 350). DeYoung failed to respond to the Complaint or otherwise defend against this action; therefore, on September 2, 2020, Plaintiff moved for entry of a clerk's default (Doc. 407) and the Clerk entered a default against him on September 3, 2020 (Doc. 410);

m. Pursuant to Fed.R.Civ.P. Rule 4(d), on May 4, 2020, Plaintiff mailed a "Notice of a Lawsuit and Request to Waive Service of Summons" and a copy of the Complaint to Duenas, and requested a waiver of the service of summons. Duenas waived service of summons, which required her to file a responsive pleading on or before July 6, 2020. (Doc. 17). Duenas failed to respond to the Complaint or otherwise defend against this action; therefore, on July 16, 2020, Plaintiff moved for entry of a clerk's default (Doc. 223) and the Clerk entered a default against her on July 17, 2020 (Doc. 231);

n. Flander was served with process on July 6, 2020. (Doc. 210). Flander filed a joint Motion to Quash on July 20, 2020 (Doc. 237), which was denied by Oral Order on August 17, 2020, that directed him to file an answer to the Complaint by September 16, 2020 or be subject to entry of default (Doc. 344). Flander failed to answer the Complaint as directed; therefore, on

September 17, 2020, Plaintiff moved for entry of a clerk's default (Doc. 423) and the Clerk entered a default against him on September 18, 2020 (Doc. 431);

o. The Fuksmans were served with process on July 2, 2020. (Doc. 208 and 209). The Fuksmans filed a joint Motion for Joinder to David Lipinczyk's Motion to Quash Summons and Object to Jurisdiction on July 23, 2020 (Doc. 260), which was denied by Oral Order on August 17, 2020. The Court directed the Fuksmans to file an answer to the Complaint by September 16, 2020 or be subject to entry of default (Doc. 344). The Fuksmans failed to answer the Complaint as directed; therefore, on September 21, 2020, Plaintiff moved for entry of clerk's defaults (Doc. 441) and the Clerk entered defaults against them on September 22, 2020 (Doc. 445 and 446);

p. Pursuant to Fed.R.Civ.P. Rule 4(d), on May 4, 2020, Plaintiff mailed a "Notice of a Lawsuit and Request to Waive Service of Summons" and a copy of the Complaint to Garbellano, and requested a waiver of the service of summons. Garbellano waived service of summons, which required him to file a responsive pleading on or before July 6, 2020. (Doc. 162). Garbellano failed to respond to the Complaint or otherwise defend against this action; therefore, on July 16, 2020, Plaintiff moved for entry of a clerk's default (Doc. 219) and the Clerk entered a default against him on July 17, 2020 (Doc. 227);

q. Gladman was served with process on August 28, 2020. (Doc. 437). Gladman failed to respond to the Complaint or otherwise defend against this action; therefore, on September 21, 2020, Plaintiff moved for entry of a clerk's default (Doc. 439) and the Clerk entered a default against him on September 22, 2020 (Doc. 442);

r. Hicks was served with process on June 26, 2020. (Doc. 187). Hicks filed a Motion to Quash on July 21, 2020 (Doc. 242), which was denied by Oral Order on August 17, 2020, that directed him to file an answer to the Complaint by September 16, 2020 or be subject to entry of

default (Doc. 344). Hicks failed to answer the Complaint as directed; therefore, on September 22, 2020, Plaintiff moved for entry of a clerk's default (Doc. 448) and the Clerk entered a default against him on September 23, 2020 (Doc. 451);

s. The Hubbards were served with process on June 29, 2020. (Doc. 179 and 180). The Hubbards filed joint Motions to Quash on July 20, 2020 (Doc. 234 and 235), which were denied by Oral Order on August 17, 2020, that directed them to file an answer to the Complaint by September 16, 2020 or be subject to entry of default (Doc. 344). The Hubbards failed to answer the Complaint as directed; therefore, on September 22, 2020, Plaintiff moved for entry of clerk's defaults (Doc. 449) and the Clerk entered defaults against them on September 23, 2020 (Doc. 452 and 453);

t. Pursuant to Fed.R.Civ.P. Rule 4(d), on May 4, 2020, Plaintiff mailed a "Notice of a Lawsuit and Request to Waive Service of Summons" and a copy of the Complaint to Huckabee, and requested a waiver of the service of summons. Huckabee waived service of summons, which required him to file a responsive pleading on or before July 6, 2020. (Doc. 10). Huckabee failed to respond to the Complaint or otherwise defend against this action; therefore, on July 16, 2020, Plaintiff moved for entry of a clerk's default (Doc. 218) and the Clerk entered a default against him on July 17, 2020 (Doc. 226);

u. Impulse Ventures was served with process on July 7, 2020. (Doc. 191). Impulse Ventures failed to respond to the Complaint or otherwise defend against this action; therefore, on August 4, 2020, Plaintiff moved for entry of a clerk's default (Doc. 300) and the Clerk entered a default against it on August 5, 2020 (Doc. 305);

v. Kerrigan Mgt. was served with process on July 18, 2020. (Doc. 248). Kerrigan Mgt. filed a Motion for Joinder to Kevin Kerrigan's Motion to Quash Summons and Object to

Jurisdiction (Doc. 259), which was denied by Oral Order on August 17, 2020, that directed it to file an answer to the Complaint by September 16, 2020 or be subject to entry of default (Doc. 344). Kerrigan Mgt. failed to answer the Complaint as directed; therefore, on September 17, 2020, Plaintiff moved for entry of a clerk's default (Doc. 426) and the Clerk entered a default against it on September 18, 2020 (Doc. 434);

w. The LaVecchias were served with process on July 8, 2020. (Doc. 214 and 215). The LaVecchias failed to respond to the Complaint or otherwise defend against this action; therefore, on August 4, 2020, Plaintiff moved for entry of a clerk's defaults (Doc. 301 and 302) and the Clerk entered defaults against them on August 5, 2020 (Doc. 306 and 307);

x. Leach was served with process on July 7, 2020. (Doc. 245). Leach failed to respond to the Complaint or otherwise defend against this action; therefore, on August 6, 2020, Plaintiff moved for entry of a clerk's default (Doc. 310) and the Clerk entered a default against him on August 7, 2020 (Doc. 312);

y. Life's Elements was served with process on July 10, 2020. (Doc. 247). Life's Elements filed a Motion to Quash Summons and Object to Jurisdiction on July 20, 2020 (Doc. 232). By Endorsed Order entered on August 14, 2020, the Court granted Life's Elements thirty (30) days to respond to the Complaint or pursue other remedies (Doc. 333). Life's Elements failed to answer the Complaint as directed; therefore, on September 17, 2020, Plaintiff moved for entry of a clerk's default (Doc. 427) and the Clerk entered a default against it on September 18, 2020 (Doc. 435);

z. Luda was served with process on August 15, 2020. (Doc. 349). Luda failed to respond to the Complaint or otherwise defend against this action; therefore, on September 17, 2020, Plaintiff moved for entry of a clerk's default (Doc. 428) and the Clerk entered a default

against him on September 18, 2020 (Doc. 436);

aa. Lynch was served with process on July 7, 2020. (Doc. 213). Lynch failed to respond to the Complaint or otherwise defend against this action; therefore, on August 5, 2020, Plaintiff moved for entry of a clerk's default (Doc. 308) and the Clerk entered a default against him on August 7, 2020 (Doc. 311);

bb. Marshall was served with process on July 3, 2020. (Doc. 253). Marshall failed to respond to the Complaint or otherwise defend against this action; therefore, on July 28, 2020, Plaintiff moved for entry of a clerk's default (Doc. 281) and the Clerk entered a default against him on July 29, 2020 (Doc. 289);

cc. McClare was served with process on July 1, 2020. (Doc. 256). McClare failed to respond to the Complaint or otherwise defend against this action; therefore, on July 29, 2020, Plaintiff moved for entry of a clerk's default (Doc. 284) and the Clerk entered a default against her on July 29, 2020 (Doc. 284);

dd. Petralis, Jr. was served with process on July 2, 2020. (Doc. 254). On July 21, 2020, Petralis, Jr. filed a Motion to Join David Lipinczyk's Motion to Quash Summons and Object to Jurisdiction (Doc. 240), which was denied by Oral Order on August 17, 2020, that directed him to file an answer to the Complaint by September 16, 2020 or be subject to entry of default (Doc. 344). Petralis, Jr. failed to answer the Complaint; therefore, on September 23, 2020, Plaintiff moved for entry of a clerk's default (Doc. 458) and the Clerk entered a default against him on September 24, 2020 (Doc. 475);

ee. Renner was served with process on July 3, 2020. (Doc. 192). Renner failed to respond to the Complaint or otherwise defend against this action; therefore, on July 28, 2020, Plaintiff moved for entry of a clerk's default (Doc. 282) and the Clerk entered a default against

him on July 29, 2020 (Doc. 290);

ff. Rubel was served with process on June 30, 2020. (Doc. 203). Rubel failed to respond to the Complaint or otherwise defend against this action; therefore, on July 27, 2020, Plaintiff moved for entry of a clerk's default (Doc. 270) and the Clerk entered a default against him on July 28, 2020 (Doc. 280);

gg. Vona was served with process on July 15, 2020. (Doc. 249). Vona failed to respond to the Complaint or otherwise defend against this action; therefore, on August 13, 2020, Plaintiff moved for entry of a clerk's default (Doc. 327) and the Clerk entered a default against him on August 14, 2020 (Doc. 337);

hh. Wood was served with process on July 18, 2020. (Doc. 277). Wood failed to respond to the Complaint or otherwise defend against this action; therefore, on August 13, 2020, Plaintiff moved for entry of a clerk's default (Doc. 328) and the Clerk entered a default against her on August 14, 2020 (Doc. 338).

In the Complaint, Plaintiff asserted claims for damages to recover money transferred to each Defaulted Defendant which exceeds the amount invested by Defaulted Defendants in one or more of the Plaintiff's receivership entities involved in a Ponzi scheme. The Complaint alleges that Defaulted Defendants participated in this activity by receiving thousands of dollars in fraudulent transfers from the scheme in the form of false profits. In Count I of the Complaint, Plaintiff asserts claims against Defaulted Defendants under three provisions of FUFTA, Fla. Stat. § 726.101 *et seq.*: Florida Statutes Section 726.105(1)(a), which codifies claims under a theory of "actual fraud," and Florida Statutes Sections 726.105(1)(b) and 726.106(1), which codify claims under a theory of "constructive fraud." In Count II, Plaintiff asserts, in the alternative, a claim for unjust enrichment. These claims are based on the payments made to Defaulted Defendants by or

on behalf of the receivership entities as set forth in the Complaint.

II. Default Judgment

Federal Rule of Civil Procedure 55(a) sets forth the following regarding an entry of default:

- (a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.

A district court may enter a default judgment against a properly served defendant who fails to defend or otherwise appear pursuant to Federal Rule of Civil Procedure 55(b)(2); *DirectTV, Inc. v. Griffin*, 290 F.Supp.2d 1340, 1343 (M.D. Fla. 2003). The mere entry of a default by the Clerk does not, in itself, warrant the Court entering a default judgment. *See Tyco Fire & Sec. LLC v. Alcocer*, 218 F. App'x 860, 863(11th Cir. 2007) (citing *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206(5th Cir. 1975)). Rather, a court must ensure that there is a sufficient basis in the pleadings for the judgment to be entered. *Id.* A default judgment has the effect of establishing as fact the plaintiff's well-plead allegations of fact and bars the defendant from contesting those facts on appeal. *Id.* Based upon the Clerk's defaults and the well-pleaded factual allegations contained in the Complaint, it has been established that Plaintiff is entitled to the relief sought against the Arduinis, Albright, Barton, Berry, Black Dragon, the Charleses, the Clarks, Commonwealth Networking, Crichlow, the Daidones, DeYoung, Duenas, Flander, the Fuksmans, Garbellano, Gladman, Hicks, the Hubbards, Huckabee, Impulse Ventures, Kerrigan Mgt., the LaVecchias, Leach, Life's Elements, Luda, Lynch, Marshall, McClare, Petralis, Jr., Renner, Rubel, Vona, and Wood.

Accordingly, it is

ORDERED and ADJUDGED:


1. Plaintiff's Omnibus Motion for Default Judgment (Doc. 523) is **GRANTED** as to the Arduinis, Albright, Barton, Berry, Black Dragon, the Charleses, the Clarks, Commonwealth Networking, Crichlow, the Daidones, DeYoung, Duenas, Flander, the Fuksmans, Garbellano, Gladman, Hicks, the Hubbards, Huckabee, Impulse Ventures, Kerrigan Mgt., the LaVecchias, Leach, Life's Elements, Luda, Lynch, Marshall, McClare, Petralis, Jr., Renner, Rubel, Vona, and Wood.

2. The Clerk shall enter judgments for the damages plus prejudgment interest against the Defaulted Defendants as set forth below.

No.	Defaulted Defendant	Joint & Several	Damages	Prejudgment Int. through 11/04/20
1.	Chris & Shelly Arduini	√	\$26,448.45	\$5,859.86
2.	John Bacon		\$7,500.00	\$2,667.68
3.	Morgan Albright fka Sherry Berry		\$40,710.85	\$16,994.37
4.	Ann Barton		\$22,037.29	\$4,884.03
5.	Todd Berry		\$15,744.78	\$6,765.05
6.	Black Dragon Capital, LLC		\$53,429.71	\$9,240.41
7.	Joseph & Cushaun Charles	√	\$27,211.26	\$7,987.27
8.	Ron & Kim Clark	√	\$5,374.40	\$2,121.87
9.	Commonwealth Network Marketing Corp.		\$49,575.00	\$14,904.80
10.	Crichlow Computer Concepts		\$27,027.75	\$11,227.51
11.	Thomas & Anne Daidone	√	\$12,838.87	\$4,509.85
12.	Michael DeYoung		\$47,851.21	\$5,697.40
13.	Mariana Duenas		\$21,622.08	\$8,481.52
14.	Patrick Flander		\$14,199.89	\$3,419.08
15.	Henry & Anna Fuksmans	√	\$23,938.69	\$2,846.11
16.	Rocco Garbellano		\$268,692.51	\$59,263.00
17.	Jason Gladman		\$24,564.44	\$4,802.64
18.	Chad Hicks		\$5,547.94	\$582.79
19.	Richard & Courtney Hubbard	√	\$29,297.01	\$6,498.70

No.	Defaulted Defendant	Joint & Several	Damages	Prejudgment Int. through 11/04/20
20.	Charles Huckabee		\$28,300.00	\$3,718.78
21.	Impulse Ventures, Inc.		\$32,382.05	\$6,488.82
22.	Kerrigan Management, Inc.		\$273,795.40	\$47,094.30
23.	Joseph & Lynne LaVecchia	√	\$551,283.27	\$138,627.10
24.	Matthew Leach		\$156,889.16	\$25,815.37
25.	Life's Elements, Inc.		\$55,409.46	\$7,801.48
26.	Piotr Luda		\$5,884.09	\$2,151.40
27.	Wayne Lynch		\$8,321.56	\$2,135.07
28.	Shawn Marshall		\$36,150.00	\$5,348.31
29.	Kathryn McClare		\$7,121.28	\$1,646.13
30.	Vince Petralis, Jr.		\$29,245.99	\$10,622.89
31.	Jay Renner		\$13,157.69	\$5,586.01
32.	Michael Rubel		\$10,232.92	\$1,766.65
33.	Carmin Vona		\$6,750.00	\$885.22
34.	Stefania Wood		\$5,250.00	\$672.91

DONE and ORDERED in Chambers in Tampa, Florida, this 3rd day of November 2020.


 VIRGINIA M. HERNANDEZ COVINGTON
 UNITED STATES DISTRICT JUDGE

Copies to:

All parties and counsel of record